

# EXHIBIT A

**Audrey M. Airut Murphy**

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**To:** Roger Townsend  
**Subject:** RE: 3:21-cv-05411-DGE Pena et al v. Clark County - witness conflict due to court schedule--Dr. Doerfler May 30

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**From:** Roger Townsend <[rtownsend@bjtlegal.com](mailto:rtownsend@bjtlegal.com)>

**Sent:** Monday, May 15, 2023 4:32 PM

**To:** Jayne L. Freeman <[JFreeman@kbmlawyers.com](mailto:JFreeman@kbmlawyers.com)>; Luis Lozada <[Llozada@MALDEF.org](mailto:Llozada@MALDEF.org)>; Audrey M. Airut Murphy <[amurphy@kbmlawyers.com](mailto:amurphy@kbmlawyers.com)>; Dan Johnson <[djohnson@bjtlegal.com](mailto:djohnson@bjtlegal.com)>; Fernando Nuñez <[FNunez@MALDEF.org](mailto:FNunez@MALDEF.org)>; [leslie.lopez@clark.wa.gov](mailto:leslie.lopez@clark.wa.gov); Leticia Saucedo <[LSaucedo@MALDEF.org](mailto:LSaucedo@MALDEF.org)>

**Cc:** LaHoma Walker <[LWalker@kbmlawyers.com](mailto:LWalker@kbmlawyers.com)>; Lindsey Martin <[LMartin@kbmlawyers.com](mailto:LMartin@kbmlawyers.com)>; Ann Iarossi <[aiarossi@bjtlegal.com](mailto:aiarossi@bjtlegal.com)>; Mariajose Corona <[mcorona@MALDEF.org](mailto:mcorona@MALDEF.org)>; Jessica McClure <[jmcclure@bjtlegal.com](mailto:jmcclure@bjtlegal.com)>

**Subject:** Re: 3:21-cv-05411-DGE Pena et al v. Clark County - witness conflict due to court schedule--Dr. Doerfler May 30

We oppose you calling this witness during Plaintiff's case in chief. A perpetuation deposition or Zoom testimony is a more appropriate resolution of your scheduling conflict.

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**From:** Jayne L. Freeman <[JFreeman@kbmlawyers.com](mailto:JFreeman@kbmlawyers.com)>

**Sent:** Monday, May 15, 2023 3:19 PM

**To:** Luis Lozada <[Llozada@MALDEF.org](mailto:Llozada@MALDEF.org)>; Roger Townsend <[rtownsend@bjtlegal.com](mailto:rtownsend@bjtlegal.com)>; Audrey M. Airut Murphy <[amurphy@kbmlawyers.com](mailto:amurphy@kbmlawyers.com)>; Dan Johnson <[djohnson@bjtlegal.com](mailto:djohnson@bjtlegal.com)>; Fernando Nuñez <[FNunez@MALDEF.org](mailto:FNunez@MALDEF.org)>; [leslie.lopez@clark.wa.gov](mailto:leslie.lopez@clark.wa.gov) <[leslie.lopez@clark.wa.gov](mailto:leslie.lopez@clark.wa.gov)>; Leticia Saucedo <[LSaucedo@MALDEF.org](mailto:LSaucedo@MALDEF.org)>

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**Subject:** RE: 3:21-cv-05411-DGE Pena et al v. Clark County - witness conflict due to court schedule--Dr. Doerfler May 30

Counsel: so far, I think the only witness who has a serious conflict with appearing on trial days now scheduled by the court is Dr. Doerfler, who is out of state and unavailable June 1-20. We need to schedule an appearance for him so he can keep his clinical schedule open for a specified time on a date certain and to pay for his time. His office has indicated they could reserve time between **10:30am-noon for him to appear via Zoom on Tuesday, May 30<sup>th</sup>**. This is the latest date he can appear before his lengthy absence. We do not anticipate 1 ½ hours of testimony, only getting him on and off the stand during that time period.

Could you please confirm that Plaintiffs will agree to put him on the stand during that time frame, even if it ends up being slightly out of order? It doesn't seem like something we should have to bother the court with. It will be day 4 of trial witnesses.

Thank you.

*Jayne L. Freeman*  
**KBM** KEATING, BUCKLIN  
& McCORMACK

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**From:** Luis Lozada <[Llozada@MALDEF.org](mailto:Llozada@MALDEF.org)>

**Sent:** Monday, May 15, 2023 11:11 AM

**To:** Jayne L. Freeman <[JFreeman@kbmlawyers.com](mailto:JFreeman@kbmlawyers.com)>; Roger Townsend <[rtownsend@bjtlegal.com](mailto:rtownsend@bjtlegal.com)>; Audrey M. Airut Murphy <[amurphy@kbmlawyers.com](mailto:amurphy@kbmlawyers.com)>; Dan Johnson <[djohnson@bjtlegal.com](mailto:djohnson@bjtlegal.com)>; Fernando Nuñez <[FNunez@MALDEF.org](mailto:FNunez@MALDEF.org)>; [leslie.lopez@clark.wa.gov](mailto:leslie.lopez@clark.wa.gov); Leticia Saucedo <[LSaucedo@MALDEF.org](mailto:LSaucedo@MALDEF.org)>

**Cc:** LaHoma Walker <[LWalker@kbmlawyers.com](mailto:LWalker@kbmlawyers.com)>; Lindsey Martin <[LMartin@kbmlawyers.com](mailto:LMartin@kbmlawyers.com)>; Ann Iarossi <[aiarossi@bjtlegal.com](mailto:aiarossi@bjtlegal.com)>; Mariajose Corona <[mcorona@MALDEF.org](mailto:mcorona@MALDEF.org)>; Jessica McClure <[jmcclure@bjtlegal.com](mailto:jmcclure@bjtlegal.com)>

**Subject:** Re: 3:21-cv-05411-DGE Pena et al v. Clark County - amended neutral statement of the case

Counsel:

Please find attached our edits to the amended joint neutral statement.

**Luís L. Lozada**

**Staff Attorney**

634 South Spring Street, 11th Floor

Los Angeles, CA 90014

(213) 629-2512 x 145 - voice

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**From:** Jayne L. Freeman <[JFreeman@kbmlawyers.com](mailto:JFreeman@kbmlawyers.com)>

**Sent:** Friday, May 12, 2023 8:17 PM

**To:** Roger Townsend; Audrey M. Airut Murphy; Dan Johnson; Fernando Nuñez; [leslie.lopez@clark.wa.gov](mailto:leslie.lopez@clark.wa.gov); Luis Lozada; Leticia Saucedo

**Cc:** LaHoma Walker; Lindsey Martin; Ann Iarossi; Mariajose Corona; Jessica McClure

**Subject:** RE: 3:21-cv-05411-DGE Pena et al v. Clark County - amended neutral statement of the case

Counsel: attached please find our proposal for amending the Joint Neutral statement of the case that Judge Estudillo requested we file by Monday. Also, can you please file the Amended Joint Pre-trial order that was emailed to the court Thursday?

Thx,

*Jayne L. Freeman*  
**KBM** KEATING, BUCKLIN  
& McCORMACK

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**From:** Roger Townsend <[rtownsend@bjtlegal.com](mailto:rtownsend@bjtlegal.com)>  
**Sent:** Thursday, May 11, 2023 3:25 PM  
**To:** Jayne L. Freeman <[JFreeman@kbmlawyers.com](mailto:JFreeman@kbmlawyers.com)>; Audrey M. Airut Murphy <[amurphy@kbmlawyers.com](mailto:amurphy@kbmlawyers.com)>; Dan Johnson <[djohnson@bjtlegal.com](mailto:djohnson@bjtlegal.com)>; [fnunez@maldef.org](mailto:fnunez@maldef.org); [leslie.lopez@clark.wa.gov](mailto:leslie.lopez@clark.wa.gov); [llozada@maldef.org](mailto:llozada@maldef.org); [lsaucedo@maldef.org](mailto:lsaucedo@maldef.org)  
**Cc:** LaHoma Walker <[LWalker@kbmlawyers.com](mailto:LWalker@kbmlawyers.com)>; Lindsey Martin <[LMartin@kbmlawyers.com](mailto:LMartin@kbmlawyers.com)>; Ann Iarossi <[aiarossi@bjtlegal.com](mailto:aiarossi@bjtlegal.com)>; Mariajose Corona <[mcorona@MALDEF.org](mailto:mcorona@MALDEF.org)>; Roger Townsend <[rtownsend@bjtlegal.com](mailto:rtownsend@bjtlegal.com)>; Jessica McClure <[jmcclure@bjtlegal.com](mailto:jmcclure@bjtlegal.com)>  
**Subject:** Re: 3:21-cv-05411-DGE Pena et al v. Clark County - Def 2nd edits to revised pre-trial order  
**Importance:** High

Jayne:  
See our response - we will send to the court by EOD per the court's request. Please send any edits before then.

**From:** Jayne L. Freeman <[JFreeman@kbmlawyers.com](mailto:JFreeman@kbmlawyers.com)>  
**Sent:** Thursday, May 11, 2023 12:19 PM  
**To:** Roger Townsend <[rtownsend@bjtlegal.com](mailto:rtownsend@bjtlegal.com)>; Audrey M. Airut Murphy <[amurphy@kbmlawyers.com](mailto:amurphy@kbmlawyers.com)>; Dan Johnson <[djohnson@bjtlegal.com](mailto:djohnson@bjtlegal.com)>; [fnunez@maldef.org](mailto:fnunez@maldef.org) <[fnunez@maldef.org](mailto:fnunez@maldef.org)>; [leslie.lopez@clark.wa.gov](mailto:leslie.lopez@clark.wa.gov) <[leslie.lopez@clark.wa.gov](mailto:leslie.lopez@clark.wa.gov)>; [llozada@maldef.org](mailto:llozada@maldef.org) <[llozada@maldef.org](mailto:llozada@maldef.org)>; [lsaucedo@maldef.org](mailto:lsaucedo@maldef.org) <[lsaucedo@maldef.org](mailto:lsaucedo@maldef.org)>  
**Cc:** LaHoma Walker <[LWalker@kbmlawyers.com](mailto:LWalker@kbmlawyers.com)>; Lindsey Martin <[LMartin@kbmlawyers.com](mailto:LMartin@kbmlawyers.com)>; Ann Iarossi <[aiarossi@bjtlegal.com](mailto:aiarossi@bjtlegal.com)>; Mariajose Corona <[mcorona@MALDEF.org](mailto:mcorona@MALDEF.org)>  
**Subject:** RE: 3:21-cv-05411-DGE Pena et al v. Clark County - Def 2nd edits to revised pre-trial order

Counsel: attached please find additional revisions to the Amended pre-trial order—one in track changes and one with changes “accepted.” If you have further changes, can you track change them on this “clean copy” so we can get closer to a finished product.  
Thanks

I didn't see any exhibits that are not either stipulated or where we did not provide objections. We put an asterik by witness descriptions that seem outside the scope of evidence at this point in light of the SJ Order in case the court wants to discuss this tomorrow.

Waggoner, Lipscomb and Hill are all available to appear in person at trial to testify.

See the notes in the proposed pre-trial order re: Gage Bryant. The County has never been able to locate an address for him (temporary workers were employed by a temp agency, not the County), and Plaintiffs maintained throughout discovery that his address was “unknown.” It appears Plaintiffs must have his address if he will be appearing at trial, but his address is still listed as

"unknown" on the pre-trial order. We will be asking the court to either strike this witness or permit Defendant to depose him prior to trial, as the County was unable to subpoena him for a deposition without his address.

I will be out at medical appointments this afternoon, but Audrey and our assistants should be able to work with you to get this finalized if there are further changes so we can get it to the court this afternoon.

Thanks.



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**From:** Roger Townsend <[rtownsend@bjtlegal.com](mailto:rtownsend@bjtlegal.com)>

**Sent:** Wednesday, May 10, 2023 4:22 PM

**To:** Jayne L. Freeman <[JFreeman@kbmlawyers.com](mailto:JFreeman@kbmlawyers.com)>; Audrey M. Airut Murphy <[amurphy@kbmlawyers.com](mailto:amurphy@kbmlawyers.com)>; Dan Johnson <[djohnson@bjtlegal.com](mailto:djohnson@bjtlegal.com)>; [fnunez@maldef.org](mailto:fnunez@maldef.org); [leslie.lopez@clark.wa.gov](mailto:leslie.lopez@clark.wa.gov); [llozada@maldef.org](mailto:llozada@maldef.org); [lsaucedo@maldef.org](mailto:lsaucedo@maldef.org)

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**Subject:** Re: 3:21-cv-05411-DGE Pena et al v. Clark County - Def proposed edits to revised pre-trial order

Jayne -

See redlines to the document you sent this morning in following up. We are still working on our Zoom list and what witness hardships exist.

Are you sending jury instructions?

Thanks,  
Roger

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**From:** Roger Townsend <[rtownsend@bjtlegal.com](mailto:rtownsend@bjtlegal.com)>

**Sent:** Wednesday, May 10, 2023 2:53 PM

**To:** Jayne L. Freeman <[JFreeman@kbmlawyers.com](mailto:JFreeman@kbmlawyers.com)>; Audrey M. Airut Murphy <[amurphy@kbmlawyers.com](mailto:amurphy@kbmlawyers.com)>; Dan Johnson <[djohnson@bjtlegal.com](mailto:djohnson@bjtlegal.com)>; [fnunez@maldef.org](mailto:fnunez@maldef.org) <[fnunez@maldef.org](mailto:fnunez@maldef.org)>; [leslie.lopez@clark.wa.gov](mailto:leslie.lopez@clark.wa.gov) <[leslie.lopez@clark.wa.gov](mailto:leslie.lopez@clark.wa.gov)>; [llozada@maldef.org](mailto:llozada@maldef.org) <[llozada@maldef.org](mailto:llozada@maldef.org)>; [lsaucedo@maldef.org](mailto:lsaucedo@maldef.org) <[lsaucedo@maldef.org](mailto:lsaucedo@maldef.org)>

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**Subject:** Re: 3:21-cv-05411-DGE Pena et al v. Clark County - Def proposed edits to revised pre-trial order

Thanks Jayne -

We will review and revise this. There are several exhibits you have not responded to as to whether you have an objection.

Your proposed Zoom list is fine. We are working on a proposed Zoom witness list as well and expect to suggest that Judith Clark (physical limitation) and Gauge Bryant (distance, hardship) be called by Zoom at this time.

For Waggoner, Lipscomb and Hill being called in our case in chief, we will propose that they be called by zoom. This will be more efficient and better for the Court's keeping time. Because of Zoom, we can do this pretty easily and resolves the question of calling witnesses out of order.

We do not intend to call Harris or Lawrence in our CIC at this time.

With respect to the letter on court days, you can interpret that to mean the 3<sup>rd</sup> and 4<sup>th</sup> days of trial, not the calendar days which reference Friday.

Roger

**Roger M. Townsend**

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**From:** Jayne L. Freeman <[JFreeman@kbmlawyers.com](mailto:JFreeman@kbmlawyers.com)>

**Sent:** Wednesday, May 10, 2023 10:25 AM

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**Subject:** RE: 3:21-cv-05411-DGE Pena et al v. Clark County - Def proposed edits to revised pre-trial order

Roger: here is what I took a crack at in track changes format. As I assume we will discuss trial scheduling on Friday, we might want to think about what we can propose jointly, or maybe we've accomplished that by bolding Plaintiffs witnesses that defendants also plan to call.

We would like to seek permission to present the following witnesses via zoom:

1. Carolyn Henegis: she recently suffered a serious injury and is restricted in mobility & travel
2. Dr. Doerfler (busy schedule, expense, travel & he has requested, testimony will be brief)
3. Dr. McCouch (testimony will be brief)
4. Mande Lawrence (from Tennessee, particularly if Plaintiffs do not intend to call her or we cannot agree on a date certain to get her on the stand so she can arrange travel).

Please advise or include in the pre-trial order if Plaintiffs have any dispute as to these requests and let us know if there are certain witnesses about whom Plaintiffs intend to make similar proposals so we can evaluate.

Depending on the court's rulings re: MILs, etc., the trial exhibits and scope of witnesses may change, but we cannot really determine yes as we have to respond to the case Plaintiffs put on.

I think I also took a crack at starting to revise proposed jury instructions per the SJ order, and will forward those as well; it seems the first set filed by the parties confirms the scope of instructions the parties proposed prior to the SJ order and the parties should be able to confirm that neither party is waiving those proposals by revising proposed instructions pursuant to the court's SJ order, docket #90.

Thanks,  
-Jayne

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**From:** Roger Townsend <[rtownsend@bjtlegal.com](mailto:rtownsend@bjtlegal.com)>

**Sent:** Wednesday, May 10, 2023 9:36 AM

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**Subject:** Re: 3:21-cv-05411-DGE Pena et al v. Clark County - Pretrial Order Needed

Thank you

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**From:** Jayne L. Freeman <[JFreeman@kbmlawyers.com](mailto:JFreeman@kbmlawyers.com)>

**Sent:** Wednesday, May 10, 2023 9:35 AM

**To:** Roger Townsend <[rtownsend@bjtlegal.com](mailto:rtownsend@bjtlegal.com)>; Audrey M. Airut Murphy <[amurphy@kbmlawyers.com](mailto:amurphy@kbmlawyers.com)>; Dan Johnson <[djohnson@bjtlegal.com](mailto:djohnson@bjtlegal.com)>; [fnunez@maldef.org](mailto:fnunez@maldef.org) <[fnunez@maldef.org](mailto:fnunez@maldef.org)>; [leslie.lopez@clark.wa.gov](mailto:leslie.lopez@clark.wa.gov) <[leslie.lopez@clark.wa.gov](mailto:leslie.lopez@clark.wa.gov)>; [llozada@maldef.org](mailto:llozada@maldef.org) <[llozada@maldef.org](mailto:llozada@maldef.org)>; [lsaucedo@maldef.org](mailto:lsaucedo@maldef.org) <[lsaucedo@maldef.org](mailto:lsaucedo@maldef.org)>

**Subject:** RE: 3:21-cv-05411-DGE Pena et al v. Clark County - Pretrial Order Needed

I'll take a look and try to send a draft over bf I leave for the airport this morning.

-Jayne

---

**From:** Roger Townsend <[rtownsend@bjtlegal.com](mailto:rtownsend@bjtlegal.com)>

**Sent:** Wednesday, May 10, 2023 9:29 AM

**To:** Audrey M. Airut Murphy <[amurphy@kbmlawyers.com](mailto:amurphy@kbmlawyers.com)>; Dan Johnson <[djohnson@bjtlegal.com](mailto:djohnson@bjtlegal.com)>; [fnunez@maldef.org](mailto:fnunez@maldef.org); Jayne L. Freeman <[JFreeman@kbmlawyers.com](mailto:JFreeman@kbmlawyers.com)>; [leslie.lopez@clark.wa.gov](mailto:leslie.lopez@clark.wa.gov); [llozada@maldef.org](mailto:llozada@maldef.org); [lsaucedo@maldef.org](mailto:lsaucedo@maldef.org)

**Subject:** Re: 3:21-cv-05411-DGE Pena et al v. Clark County - Pretrial Order Needed

Removing the court - Jayne how far did you get in this project?

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**From:** Gretchen Craft <[Gretchen\\_Craft@wawd.uscourts.gov](mailto:Gretchen_Craft@wawd.uscourts.gov)>

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**Subject:** 3:21-cv-05411-DGE Pena et al v. Clark County - Pretrial Order Needed

Good morning counsel,

Would you please file a joint pretrial order by end of day tomorrow, May 11, 2023? Plaintiffs filed "Plaintiffs' Amended Proposed Pretrial Order," Dkt. 91, but a **joint** pretrial order should be filed to incorporate the Court's order on summary judgment, Dkt. 90.

Thank you and please let me know if you have any questions.



**Gretchen Craft**

Courtroom Deputy for  
U.S. District Judge David G. Estudillo  
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